

1 **BEFORE THE ARIZONA REGULATORY BOARD**
2 **OF PHYSICIAN ASSISTANTS**

3 In the Matter of

Board Case No. PA-14-0074A

4 **MINDI J. MIRGELER, P.A.**

**ORDER FOR LETTER OF
REPRIMAND AND PROBATION;
AND CONSENT TO THE SAME**

5 Holder of License No. **3366**
6 For the Performance of Healthcare Tasks
 In the State of Arizona.

7 Mindi J. Mirgeler, P.A. ("Respondent"), elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Letter of Reprimand and Probation;
9 admits the jurisdiction of the Arizona Regulatory Board of Physician Assistants ("Board");
10 and consents to the entry of this Order by the Board.

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of
13 physician assistants in the State of Arizona.

14 2. Respondent is the holder of License No. 3366 for the performance of health
15 care tasks in the State of Arizona.

16 3. The Board initiated case number PA-14-0074A after receiving a complaint
17 regarding Respondent's care and treatment of a 47 year-old male patient ("DW") alleging
18 failure to diagnose coronary artery disease in DW, who subsequently died.

19 4. On January 30, 2012, Respondent saw DW, who complained of upper back
20 pain radiating into the right scapula, neck and right chest. DW rated his pain as 2 out of
21 10. Respondent's physical examination of DW was significant only for tenderness over
22 his paraspinal muscles, spasm in his lower cervical and upper thoracic paraspinal
23 muscles, and a neck exam which showed full range of motion with pain with flexion.
24 There were no neurological findings. DW's cardiac and pulmonary exams were normal.
25

1 Respondent's assessment included muscular pain, possibly from recent weight lifting,
2 and Respondent prescribed Flexeril and Ibuprofen.

3 5. On February 6, 2012, DW returned to Respondent complaining of
4 worsening pain, rated as 10 out of 10. Respondent's physical exam showed DW's blood
5 pressure and heart rate to be slightly elevated, but was otherwise without change. There
6 were no cardiac or neurological features. Respondent changed DW's pain regimen to
7 Robaxin, Vicodin, and Ibuprofen. The following day, DW experienced sudden death and
8 resuscitative efforts were unsuccessful. An autopsy showed cardiomegaly, cardiac artery
9 disease, and an acute myocardial infarction in the posterior left ventricle associated with
10 healing fibrosis.

11 6. The standard of care requires a PA to consult with their supervising
12 physician concerning a patient's worsening pain. Respondent deviated from the standard
13 of care by failing to consult with her supervising physician regarding the patient's
14 worsening pain.

15 CONCLUSIONS OF LAW

16 1. The Arizona Regulatory Board of Physician Assistants possesses
17 jurisdiction over the subject matter hereof and over Respondent.

18 2. The conduct and circumstances described above constitutes unprofessional
19 conduct pursuant to A.R.S. § 32-2501(18)(j) ("[a]ny conduct or practice that is or might be
20 harmful or dangerous to the health of a patient or the public.").

21 ORDER

22 IT IS HEREBY ORDERED THAT:

- 23 1. Respondent is issued a Letter of Reprimand.
- 24 2. Respondent is placed on probation for **six months** with the following terms and
25 conditions:

1 a. Continuing Medical Education

2 Respondent shall within six months of the effective date of this Order
3 complete a minimum of ten (10) hours of Board Staff pre-approved Category I Continuing
4 Medical Education ("CME") in coronary artery disease and atypical chest pain, and
5 provide Board Staff with satisfactory proof of attendance. The CME hours shall be in
6 addition to the hours required for the renewal of licensure.

7 b. Obey All Laws

8 Respondent shall obey all state, federal and local laws, all rules governing
9 the performance of health care tasks in Arizona, and remain in full compliance with any
10 court order criminal probation, payments and other orders.

11 c. Tolling

12 In the event Respondent should leave Arizona to reside or perform health
13 care tasks outside the State or for any reason should Respondent stop performing health
14 care tasks in Arizona, Respondent shall notify the Executive Director in writing within ten
15 days of departure and return or the dates of non-performance within Arizona. Non-
16 performance is defined as any period of time exceeding thirty days during which
17 Respondent is not engaging in the performance of health care tasks. Periods of
18 temporary or permanent residence or performance of health care tasks outside Arizona
19 or of non-performance of health care tasks within Arizona, will not apply to the reduction
20 of the probationary period.

21 d. Request for Probation Termination

22 After completion of the CME, Respondent may petition the Board to have
23 the remaining probationary period terminated.

24 3. This Order is the final disposition of case number PA-14-0074A.

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2 DATED AND EFFECTIVE this 3rd day of September 2015.
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4 ARIZONA REGULATORY BOARD OF
5 PHYSICIAN ASSISTANTS

6
7 By Patricia E. McSorley
8 Patricia E. McSorley
9 Executive Director

10
11 **CONSENT TO ENTRY OF ORDER**

12 1. Respondent has read and understands this Consent Agreement and the
13 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
14 acknowledges she has the right to consult with legal counsel regarding this matter.

15 2. Respondent acknowledges and agrees that this Order is entered into freely
16 and voluntarily and that no promise was made or coercion used to induce such entry.

17 3. By consenting to this Order, Respondent voluntarily relinquishes any rights
18 to a hearing or judicial review in state or federal court on the matters alleged, or to
19 challenge this Order in its entirety as issued by the Board, and waives any other cause of
20 action related thereto or arising from said Order.

21 4. The Order is not effective until approved by the Board and signed by its
22 Executive Director.

23 5. All admissions made by Respondent are solely for final disposition of this
24 matter and any subsequent related administrative proceedings or civil litigation involving
25 the Board and Respondent. Therefore, said admissions by Respondent are not intended

1 or made for any other use, such as in the context of another state of federal government
2 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
3 any other state or federal court.

4 6. Upon signing this agreement, and returning this document (or a copy
5 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
6 entry of the Order. Respondent may not revoke the consent to the entry of the Order.
7 Respondent may not make any modifications to the document. Any modifications to this
8 original document are ineffective and void unless mutually approved by the parties.


9 7. This Order is public record that will be publicly disseminated as a formal
10 disciplinary action of the Board and will be reported to the National Practitioner's Data
11 Bank and on the Board's web site as a disciplinary action.

12 8. If any part of the Order is later declared void or otherwise unenforceable,
13 the remainder of the Order in its entirety shall remain in force and effect.

14 9. If the Board does not adopt this Order, Respondent will not assert as a
15 defense that the Board's consideration of the Order constitutes bias, prejudice,
16 prejudgment or other similar defense.

17 10. Any violation of this Consent Agreement constitutes unprofessional conduct
18 and may result in disciplinary action. A.R.S. §§ 32-2501(18)(dd) ("[v]iolating a formal
19 order, probation agreement or stipulation issued or entered into by the board or its
20 executive director.") and 32-2551

21 11. ***Respondent has read and understands the condition of probation.***

22 
23 MINDI J. MIRGELER, P.A.

DATED: 7/5/2015

1 EXECUTED COPY of the foregoing mailed
2 this 3rd day of September, 2015 with:

3 Mindi J. Mirgeler, P.A.
4 (Address of Record)

5 ORIGINAL of the foregoing filed
6 this 3rd day of September, 2015 with:

7 Arizona Regulatory Board of Physician Assistants
8 9545 E Doubletree Ranch Road
9 Scottsdale, AZ 85258

10 Mary Baker
11 Board Staff
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